Submission to the Office of the United Nations High Commissioner for Human Rights for 2022 report on climate and racial justice to the General Assembly

Country: India

Introduction

India, the second-most populous country, and one of the most prominent constitutional democracies in the world fall among the top ten countries significantly vulnerable to climate change and its injustice. Hundreds of millions of marginalised communities living in climate-vulnerable ecosystems are confronting an existential crisis. The poor and vulnerable segments of India's population, predominantly Adivasis, Dalits, backward classes, and other marginalised communities, encounter a dual climate injustice: they endure the climate crisis exacerbated by an economic development framework based on the resource extraction that reinforces them, as well as differential utilisation and outrageous inequality among social classes. The climate issue in India is largely a "climate justice" crisis, in which hundreds of thousands of people who have had nothing to do with provoking climate change will bear the consequences. The crisis has already deteriorated to the point of becoming incredibly concerning.

India and Forest

In India, forest regions constitute an essential part of the climate change mitigation framework and action plan. India's forest cover and forest carbon sinks have been steadily expanding. Indian forests are a net sink of carbon dioxide (hereinafter 'CO2') emissions, giving a beneficial contribution to climate change mitigation. India's intervention at the climate conference to broaden the extent of the Reducing Emissions from Deforestation and Degradation (hereinafter 'REDD') programme to a REDD++ programme, which incentives not just significant reduction in deforestation but also tends to increase in sequestered carbon, is based on the idea that forests are carbon sinks that can sequester more carbon.

India's Nationally Determined Contribution (hereinafter 'NDC') from the forest sector, which aims to build an extra carbon sink of 2.5 to 3 billion tonnes of CO2 equivalent by 2030 through increased forest and tree cover, is based on optimistic projections of forest and tree sequestration capacity. The technique for measuring forest carbon has been criticized by the expert section of the United Nations Framework Convention on Climate Change (hereinafter 'UNFCCC') and scientists, and India's estimations of forest cover and forest carbon stock have been challenged as massive overestimation. Plantations of all sorts, on all lands, with a tree canopy density of 10% or above, are included in this estimate, regardless of their legal status.

These estimates also obscure the country's continuous deforestation, which is mostly caused by the conversion of forests to non-forest uses. Between April 2008 and March 2020, India lost 257,950 hectares of natural forests to this deforestation driver alone6, although the Indian government claims that plantation efforts under the Compensatory Afforestation Fund Act 2016 compensate for the forest cover lost to these projects. According to the government, compensatory afforestation is required to preserve and increase the country's forest acreage and forest cover, creating a paradoxical incentive for deforestation. One of the motives for India's ambitious forestry NDC, whose scientific foundation is yet unknown, is the accumulation of more than 6 billion USD in compensating afforestation funding.

The Indian government, on the other hand, is continuing to rationalise its energy- and fossil-fuel-intensive growth path under the pretence of poverty alleviation and "democratisation of the carbon space." Coal mining, for example, was considered a key part of India's COVID 19 reaction and recovery strategy in 2020. To increase coal mining in India, the Indian government implemented a number of modifications in mining rules, including relaxations in forest clearance processes. Notwithstanding rapidly increasing evidence of its economic uncertainties, coal, India's single greatest source of greenhouse gas (hereinafter ‘GHG’) emissions, has been touted as the "driver of economic activities."

The worldwide increase in positive emissions, fueled by the "no-holds-barred development agenda", is to blame for the impending climate crisis. Concurrently, the pressure to counterbalanced emissions through large-scale land and forest-based mitigation measures and carbon capture and storage technologies without rapidly reducing positive emissions - and is also the premise of nations' net-zero commitments - is contributing to a methodology of incorporating indigenous peoples' and local communities (‘IPLCs’) customary lands and forests around the world, including in India. Conflicts over natural resources, which also violate IPLC rights, are on the rise, and the agricultural economy is in turmoil, with large populations being driven to quit their livelihoods in pursuit of wage work.

Protests are also emerging in response to the demand for additional mitigation measures, such as windmills and solar parks, to be built on local communities' common areas without their agreement. In the last two decades, market-based methods for land-based climate mitigation have emerged, with the goal of creating a financial value for the carbon deposited on forestlands. Policy frameworks like REDD+, which are driven by governments' and businesses' desire to gain access to international carbon financing and carbon offset markets, are being used to legitimise large-scale land grabs, with benefits to people reliant on these lands falling well short of expectations. Carbon market enthusiasts, on the other hand, continue to see India's forestry industry as a key participant in the "climate change supermarket." These measures stand in stark contrast to rising evidence and universal recognition of the need of recognising, registering, and protecting IPLC rights to battle climate change and market-based mitigation strategies' failure.

Legal Structure

The Indian Constitution does provide special protections for land rights of indigenous peoples in Scheduled Areas, a geographical region with a predominance of the tribal population; under the Fifth and Sixth Schedules, recognising and instituting the pertinence of land to the individuality, economic system, and civilization of these communities. The Panchayat (Extension to Scheduled Areas) Act (hereinafter 'PESA'), passed in 1996, enhanced this statutory structure.

In Scheduled Areas, PESA upholds the supremacy of customary law, traditional community resource management techniques, and traditional conflict resolution processes. The Gram Sabhas are given the authority to administer and manage natural resources under the Act. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, commonly known as the Forest Rights Act, strengthens the constitutional protections for Scheduled Tribes. It aims to correct the past injustice meted out to India's forest dwellers. These rules and frameworks, taken together, create a robust legal foundation for forest and natural resource governance by India's forest-dwelling populations through village councils (Gram Sabhas).

Due to various their significantly greater exposure to excessive climatic incidents, high reliance on natural resources, and economic and political stigmatisation, India's forest-dependent communities, the Scheduled Tribes and Other Traditional Forest Dwellers (hereinafter 'STs/OTFDs') is one of the most vulnerable to climate change. Because of grossly unequal responsibility allocation, paucity of land rights, and asymmetrical access to decision-making processes, women are disproportionately affected within them.

Jharkhand, Odisha, and Chhattisgarh, the Indian states with the largest population of STs, have been recognised as having a "particularly high vulnerability to climate change." Forest-dependent populations are also at risk from disasters like forest fires, which are growing more often and more intense as a result of climate change. Forest fires are becoming more prevalent as a result of monoculture tree plantings in forests, which are a typical forest management strategy used by India's forest authorities to restore damaged forests.

The state's takeover of STs/OFTDS' customary lands and forests for large-scale projects like as mines, hydroelectric projects, and other large-scale projects exacerbates the vulnerability of these communities by stripping them of their primary source of subsistence and livelihood. Despite the fact that these people have been conserving and protecting their traditional woods for centuries and have contributed the least to global warming, climate change will intensify the problems they currently confront. The risk of STs/OTFDs being evicted from their lands is exacerbated by India's increasing dependence on land and forest-based mitigation options.

Environment Racism: Northeast Case Study

The indigenous tribal communities of the northeastern section of India, who lives in the hinterlands and on the country's borders are culturally diverse from those on the mainland, constituting the majority of the population. There have been numerous circumstances of mainland citizens 'alienation' and misrepresentation of these communities. These indigenous communities' voices have also been under-represented in political arenas. While the racism experienced by individuals of the Northeast receives some awareness in the mainstream media, the region's environmental racism has yet to be acknowledged.

The National Board of Wildlife (hereinafter 'NBWL') has authorized Coal India Limited license to extract coal on 98.59 hectares of land in the Dehing Patkai Wildlife Reserve, often known as the "Amazon of the East." Despite prevalent opposition to the allotment from all corners of the Northeast, the government's silence has been reverberating. On June 9 2020, Assam was beset again by another environmental disaster: a gas leak at Oil India's Baghjan oil field. Two persons died and over 7,000 people were displaced as a result of the accident. The incident had a substantial impact on Dibru-Saikhowa National Park's local biodiversity. After the tragedy, a number of inconsistencies surfaced, indicating that the government's incompetence may have contributed to the disaster. Public hearings and an environmental impact assessment plan are required for every oil drilling company to conduct oil and gas exploration in an eco-sensitive zone. In this incident, however, it was discovered that the Union Environment Ministry changed the rule in January 2020, exempting oil and gas companies wanting to perform exploratory drilling.

Even more disgraceful is the notion that, notwithstanding the horrific incident and massive public outrage, the Environment Ministry approved seven more oil drilling sites within the same Dibru-Saikhowa National Park, decimating public welfare for economic benefit. There is a considerable question that the 3,097-megawatt Etalin Dam in Arunachal Pradesh, in particular, will submerge over 300,000 trees and endanger thousands of Mishimi people in the state's Dibang valley area. The dam would therefore obstruct their access to Athu Popu, their principal pilgrimage destination, which is located directly north of the project site. Another project in the same region, the 2,880 MW Dibang Multipurpose Project, obtained confirmation. Nearly 2,000 Idu Mishimi people will be affected and displaced by this dam, which is one of the largest in India.

Besides these previous incidences, the Etalin Dam in Arunachal Pradesh, the Dibang Multipurpose Project, and almost 169 other dams being developed in the region have all been confronted with intense opposition by the local people. These developments will displace 26 major tribes and 100 sub-tribes from their ancestral homelands. However, the government utilises industrial

development and prosperity rhetoric, as well as superlatives such as "**the longest**" and "**the largest**," to push forward with its mission. The draught change to the Environmental Impact Assessment (hereinafter 'EIA') standards is the most current and most harsh addition to the list. The administration has established numerous groups of projects that will be excluded from public discussions under the proposed revisions, one of which being those that are within 100 kilometres of the country's boundaries.

Many projects in the Northeast (which accounts for 98 % of India's total international border area with Nepal, Bhutan, Bangladesh, China, and Myanmar) would be within 100 kilometres of an international boundary and hence would not require public participation. The Northeast is one of India's most environmentally fragile regions, and its inhabitants have revered and protected its woods for ages. If the new amendments are implemented, these previously undisturbed ecosystems would be endangered. The proposed changes to the EIA rules also go against the Constitution's Sixth Schedule, which gives tribal Northeast states the right to protect their lands, customs, and natural resources. As a consequence, if the proposed EIA regulations are enacted, there would be no opportunity for public engagement with the people of the land, depriving them of their constitutionally guaranteed rights. The Northeastern indigenous communities have long attempted to live in harmony with nature. Nonetheless, successive administrations have attempted to use their innocence to further their own goals. Tribal tribes now account for 40-50 % of the displaced population in India, although representing just 8% of the total population. Before it becomes too late, this imbalanced subject must be addressed. The degradation of the land's ecosystem and ethnicity can't be the price of economic prosperity. Economic growth and environmental sustainability should be mutually beneficial rather than mutually exclusive.